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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,656	03/29/2007	Greig Reid Brebner	0074-542855	9343

110 7590 11/25/2009
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

EXAMINER

JACKSON, DANIELLE

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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11/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,656	Applicant(s) BREBNER, GREIG REID	
	Examiner DANIELLE JACKSON	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/28/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29,31-47,50-64 and 67-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-29,31-47 and 50-64 is/are allowed.
- 6) ☒ Claim(s) 1-11,22 and 67-70 is/are rejected.
- 7) ☒ Claim(s) 12-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 68-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 68 recites “a first member slidable relative to a second member pivotally connected to the shaft”. It is unclear whether the first member is pivotally connected to the shaft or the second member is pivotally connected to the shaft.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 22 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida (US-4,474,201) in view of Chang (US-5,694,958).

Claims 1-6, 9: Kida discloses an umbrella comprising: a shaft (1); a plurality of rib members (20, 22), first ends of said rib members spaced about and pivotally connected at or adjacent a first end of said shaft; a canopy (33); a sliding means (9) movable along the shaft to erect or collapse the umbrella; and

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a plurality of struts (27), each of which is pivotally connected between the sliding means and a rib member. Kida further teaches a secondary sliding means (23) movable along the shaft between the primary sliding means and the first end of the shaft and a plurality of secondary struts (24), each secondary strut to be connected to a primary strut a pre-determined distance from its connection with said primary sliding means, wherein said pre-determined distance is substantially equal to the length of said secondary strut (as it appears in FIG. 1). Kida lacks pockets in the canopy and a deployable force spreading means. Chang teaches an umbrella wherein each rib (30) has a tip with a deployable force spreader (40) attached thereto and comprising a bearing surface (41), said deployable force spreader fitting into a plurality of pockets (61) located along the periphery on the canopy (6). It would have been obvious to one of ordinary skill at the time to modify Kida to include a deployable force spreader that fit into pockets on the canopy, as taught by Chang, so that the canopy does not tear from the pressure applied by the end of each rib member.

Claims 7 and 8: Kida is silent on the exact length of the secondary struts, although it appears they are substantially about half as long as the struts. However, it would have been obvious to one of ordinary skill to modify Kida so that the secondary struts were half the length of the struts, or $15/26$ times the length of the struts, since changes in proportion involves only routine skill in the art. *In re Reese* 129 USPQ 402.

Claim 22: While Kida does not disclose an umbrella with no more than six rib members; however it would have been obvious to only have six rib members

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since that is common and old and well-known to have six rib members, and one of ordinary skill would know that changing the number of rib members would be an obvious variation that would still prove effective.

Claim 67: Kida discloses an umbrella comprising: a shaft (1); a plurality of rib members (20, 22), first ends of said rib members spaced about and pivotally connected at or adjacent a first end of said shaft; a canopy (33); a sliding means (9) movable along the shaft to erect or collapse the umbrella; and a plurality of struts (27), each of which is pivotally connected between the sliding means and a rib member. Kida further teaches a secondary sliding means (23) movable along the shaft between the primary sliding means and the first end of the shaft and a plurality of secondary struts (24), each secondary strut to be connected to a primary strut a pre-determined distance from its connection with said primary sliding means, wherein said pre-determined distance is substantially equal to the length of said secondary strut (as it appears in FIG. 1). Kida lacks pockets in the canopy and a deployable force spreading means. Chang teaches an umbrella wherein each rib (30) has a tip with a deployable force spreader (40) attached thereto and comprising a bearing surface (41), said deployable force spreader fitting into a plurality of pockets (61) located along the periphery on the canopy (6). It would have been obvious to one of ordinary skill at the time to modify Kida to include a deployable force spreader that fit into pockets on the canopy, as taught by Chang, so that the canopy does not tear from the pressure applied by the end of each rib member. Furthermore, the force spreader is considered deployable from a collapsed state to an expanded state within the pocket. The

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collapsed state being when the umbrella is collapsed as a whole and the force spreader is directly adjacent the shaft and the expanded state being when the umbrella is open.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kida (US-4,474,201) in view of Chang (US-5,694,958) as applied to claim 6 above, and further in view of Siers (US-2,047,711).

The combination of Kida and Chang is discussed above and appears to have a spacing means (part of 23) that separates the separate sliding means when the umbrella is in the fully deployed position (as can be seen in FIG. 1), however the spacing means appears to be attached to the secondary sliding means. Siers teaches an umbrella having a sliding means (25) and a secondary means (31) for attaching secondary struts, wherein the sliding means has a spacing means (28; page 2, first column, lines 22-28) that restricts the upward movement of the sliding means. It would have been obvious to one of ordinary skill to modify Kida and Chang to have the spacing means attached to the sliding means, as taught by Siers, because it is an obvious variation that would not have any effect on the functionality of the umbrella.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kida (US-4,474,201) in view of Chang (US-5,694,958) as applied to claim 6 above, and further in view of Wiens et al. (US4,711,260).

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The combination of Kida and Chang is discussed above but lacks a holding means. Wiens et al. discloses an umbrella having a sliding means (26) and a holding means (59) that holds the sliding means in place and acts as a bias (column 5, lines 46-58). It would have been obvious to one of ordinary skill to modify Kida and Chang to include a holding means, as suggested by Wiens et al., so to provide a bias to stop movement of the sliding means.

Allowable Subject Matter

Claims 23-29, 31-47 and 50-64 are allowed.

Claims 12-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 68-70 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 7/28/09 have been fully considered but they are not persuasive. Applicant argues that Chang does not describe a *deployable* force spreader (page 15 of Applicant's response). The examiner maintains that the force spreader of Chang is in fact deployable since it moves from a collapsed state to an expanded state with the umbrella as a whole. The definition of deployable is "to arrange into a position of readiness, or to move strategically or

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appropriately." Therefore the force spreader is deployed from a position where it is in a collapsed state where it is in close proximity to the shaft to an expanded state where it is further away from the shaft.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DANIELLE JACKSON** whose telephone number is (571)272-2268. The examiner can normally be reached on Monday through Friday 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. J./
Examiner, Art Unit 3636

/DAVID DUNN/
Supervisory Patent Examiner, Art Unit 3636